
Introduced by Senator Calderon

February 18, 2011

An act to amend Section 7280 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 670, as introduced, Calderon. Occupancy taxes.

Existing law authorizes the legislative body of a city or county to impose an excise tax for the privilege of occupying a room or other living space in a hotel, inn, tourist home or house, motel, or other lodging, as provided.

This bill would revise the authorization to provide that the tax is imposed on the rent, as defined, paid for the privilege of occupying a room or other living space in a hotel, inn, tourist home or house, motel, or other lodging, and would include charter cities within the scope of this authorization.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7280 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 7280. (a) (1) The legislative body of any city, county, or city
- 4 and county may levy a tax on the *rent paid for the* privilege of
- 5 occupying a room or rooms, or other living space, in a hotel, inn,
- 6 tourist home or house, motel, or other lodging unless the occupancy
- 7 is for a period of more than 30 days. The tax, when levied by the

1 legislative body of a county, applies only to the unincorporated
2 areas of the county.

3 (2) *For purposes of this section “rent” means the amount paid*
4 *to the operator of a hotel, inn, tourist home or house, motel, or*
5 *other lodging as a condition of occupancy, and does not include*
6 *amounts paid to the operator which are not mandatory charges*
7 *for occupancy.*

8 (b) For purposes of this section, the term “the privilege of
9 occupying a room or rooms, or other living space, in a hotel, inn,
10 tourist home or house, motel, or other lodging” does not include
11 the right of an owner of a time-share estate in a room or rooms in
12 a time-share project, or the owner of a membership camping
13 contract in a camping site at a campground, or the guest of the
14 owner, to occupy the room, rooms, camping site, or other real
15 property in which the owner retains that interest.

16 For purposes of this subdivision:

17 (1) “Time-share estate” means a time-share estate, as defined
18 by paragraph (1) of subdivision (x) of Section 11212 of the
19 Business and Professions Code.

20 (2) “Membership camping contract” means a right or license
21 as defined by subdivision (b) of Section 1812.300 of the Civil
22 Code.

23 (3) “Guest of that owner” means a person who does either of
24 the following:

25 (A) Occupies real property accompanied by the owner of either
26 of the following:

27 (i) A time-share estate in that real property.

28 (ii) A camping site in a campground pursuant to a right or license
29 under a membership camping contract.

30 (B) Exercises that owner’s right of occupancy without payment
31 of any compensation to the owner.

32 (C) “Guest of that owner” specifically includes a person
33 occupying a time-share unit or a camping site in a campground
34 pursuant to any form of exchange program.

35 (c) For purposes of this section, “other lodging” includes, but
36 is not limited to, a camping site or a space at a campground or
37 recreational vehicle park, but does not include any of the following:

38 (1) Any facilities operated by a local government entity.

39 (2) Any lodging excluded pursuant to subdivision (b).

1 (3) Any campsite excluded from taxation pursuant to Section
2 7282.

3 (d) Subdivision (b) does not affect or apply to the authority of
4 any city, county, or city and county to collect a transient occupancy
5 tax from time-share projects that were in existence as of May 1,
6 1985, and which time-share projects were then subject to a transient
7 occupancy tax imposed by an ordinance duly enacted prior to May
8 1, 1985, pursuant to this section. Chapter 257 of the Statutes of
9 1985 may not be construed to affect any litigation pending on or
10 prior to December 31, 1985.

11 (e) (1) (A) If the legislative body of a city, county, or city and
12 county elects to exempt from a tax imposed pursuant to this section
13 any of the following persons whose occupancy is for the official
14 business of their employers, the legislative body shall create a
15 standard form to claim this exemption and the officer or employee
16 claiming the exemption shall sign the form under penalty of
17 perjury:

18 (i) An employee or officer of a government outside the United
19 States.

20 (ii) An employee or officer of the United States government.

21 (iii) An employee or officer of the state government or of the
22 government of a political subdivision of the state.

23 (B) The standard form described in subparagraph (A) shall
24 contain a requirement that the employee or officer claiming the
25 exemption provide to the property owner one of the following, as
26 determined by the legislative body of the city, county, or city and
27 county imposing the tax, as conclusive evidence that his or her
28 occupancy is for the official business of his or her employer:

29 (i) Travel orders from his or her government employer.

30 (ii) A government warrant issued by his or her employer to pay
31 for the occupancy.

32 (iii) A government credit card issued by his or her employer to
33 pay for the occupancy.

34 (C) The standard form described in subparagraph (A) shall
35 contain a requirement that the officer or employee provide photo
36 identification, proof of his or her governmental employment as an
37 employee or officer as described in clause (i), (ii), or (iii) of
38 subparagraph (A), and proof, consistent with the provisions of
39 subparagraph (B), that his or her occupancy is for the official
40 business of his or her governmental employer.

1 (2) There shall be a rebuttable presumption that a property owner
2 is not liable for the tax imposed pursuant to this section with respect
3 to any government employee or officer described in clause (i), (ii),
4 or (iii) of subparagraph (A) of paragraph (1) for whom the property
5 owner retains a signed and dated copy of a standard form that
6 complies with the provisions of subparagraphs (B) and (C) of
7 paragraph (1).

8 (f) The provisions of subdivision (e) are not intended to preclude
9 a city, county, or city and county from electing to exempt any other
10 class of persons from the tax imposed pursuant to this section.

11 (g) *This section shall apply to all cities, including charter cities,*
12 *counties, or cities and counties.*